

EX PARTE OR LATE FILED
DOCKET FILE COPY ORIGINAL

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

16 MAR 1993

Honorable Phil Gramm
United States Senator
2323 Bryan Street, Suite 1500
Dallas, Texas 75201

Rm 222
RECEIVED

MAR 18 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN REPLY REFER TO:

8010-JRC
CN9300781
1800D4

92-265

Dear Senator Gramm:

Thank you for your letter on behalf of Mr. Jesse A. Bankhead, of Rusk County Electric Cooperative, Inc., regarding his recommendations for implementing the programming access regulations in the Cable Television Consumer Protection and Competition Act of 1992 (1992 Cable Act).

The 1992 Cable Act prohibits unfair or discriminatory practices in the sale of programming in order to foster the development of competition to cable systems by increasing access to programming by other multichannel video programming distributors. In the 1992 Cable Act, Congress instructed the Commission to adopt implementing regulations pertaining to program access. In accordance with the statute, the Commission invited comment on provisions that will govern access to multichannel video programming (Notice of Proposed Rulemaking in MM Docket No. 92-265, released December 24, 1992). In particular, we sought comment on proposed regulations to prohibit: (1) undue influence by cable operators upon actions by affiliated program vendors, (2) price discrimination by vertically integrated satellite cable programming vendors and satellite broadcast programming vendors, and (3) certain exclusive contracting practices that the Commission finds not to be in the public interest. We also recognized testimony in the legislative history of the 1992 Cable Act that caused Congress to conclude that vertically integrated program suppliers have the incentive and ability to favor their affiliated cable operators over other multichannel programming distributors. In addition, we also indicated that the Commission previously found anecdotal evidence that some vertically integrated programming suppliers and cable operators may have indeed used anticompetitive actions against other programming services and competing multichannel providers.

Please note that we will place Mr. Bankhead's recommendations in the official record of MM Docket No. 92-265, so that they will receive full consideration prior to any action the Commission takes to implement the provisions of the 1992 Cable Act.

Sincerely,

Roy J. Stewart

Roy J. Stewart
Chief, Mass Media Bureau

No. of Copies rec'd 3 copies
USE ABCDE

bcc: Secretary's Office, Rm. 222 (2 copies) (MM Docket No. 92-265)

JRColtharp:MMB:PRD:PAB

/usr/pab/coltharp/Correspond/gramm

Phil Gramm
Texas

United States Senate

1/11/93
Bullock

781

MEMORANDUM

Date:

2/18/93

Federal Communications Commission
Office of Congressional Affairs
1919 "M" Street, NW
Washington, D.C. 20554

A constituent has sent the enclosed communication. A response which addressed his/her concerns would be appreciated.

Please send your response, together with the constituent's correspondence, to the following address:

Office of Senator Phil Gramm
2323 Bryan Street, Suite 1500
Dallas, Texas 75201



Rusk County Electric Cooperative, Inc.

P.O. Box 1169, Henderson, Texas 75653-1169
Office: 3162 Highway 43 East • Phone: (903) 657-4571
Richard T. Mills, Jr., General Manager

February 1, 1993

The Honorable Phil Gramm
Russell Building
1st & C St, N.E.
Washington, DC 20510

Dear Senator Gramm:

I am writing you to express my concern about the Federal Communications Commission's Notice of Proposed Rule Making (NPRM) that was released on December 24, specifically as it pertains to the Section 19 programming access provisions of the recently-passed cable bill.

I am the Manager of Member Services of Rusk County Electric Cooperative, Inc. a consumer-owned, not-for-profit rural utility that provides electric service to 12,500 consumers who live in portions of five counties (Rusk, Gregg, Nacogdoches, Panola & Shelby Counties). In our part of Texas, there are many consumers for whom cable service is unavailable due to their remoteness. The only way these consumers can receive television is by using a home satellite dish. Until now, these home satellite dish owners have been paying discriminatorily high rates for much of the programming they receive over their dish. The cost for this programming to home satellite dish distributors is on the average five times more than what cable operators pay for it -- a difference in price that is completely unjustifiable.

My utility, along with hundreds of utilities like it around the country, worked long and hard to secure the inclusion of the cable bill's Section 19 programming access provisions in order to protect our consumers from the cable industry's price-gouging. When the bill passed, we were understandably pleased and hopeful that the discrimination would stop.

That is why we are concerned by the tone of the FCC's NPRM on the subject. The FCC seems to have had some difficulty understanding Congress' intentions regarding the cable bill. The duty you charged the FCC with is simply: to issue rules that will encourage competition in the video marketplace by bringing an end to the already-existing monopolistic pricing practices of many cable-owned programmers. Despite this clear mandate, the FCC issued an NPRM that doesn't even admit that

OFFICERS:

TRAVIS WALL
President

SAM ALLISON
Vice-President

JOHN STILL
Secretary-Treasurer

SID ASHBY
Assistant
Secretary-Treasurer

DIRECTORS:

CLIFTON BEAVERS
TRENTON JONES

*back
to 400*

Page 2

I urge you to review the NPRM issued by the FCC on Dec. 24, and help us ensure that rural residents of Texas are protected against price discrimination by lending your voice to our objection to this NPRM. I hope you will encourage the FCC to completely fulfill their duty to you and the citizens of this nation by issuing regulations which will encourage competition in the video marketplace and bring an end to the unjustifiable discrimination against the non-cable video marketplace by cable-owned programmers. On behalf of the thousands of home satellite dish owners living in rural Texas, I thank you for your support.

Very truly,


Jesse A. (Buddy) Bankhead
Manager of Member Services

JAB:ls